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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,006	12/02/2003	Ronit Hilel	3092/1	3171

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EXAMINER

FIDEI, DAVID

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/725,006	<b>Applicant(s)</b> HILEL ET AL.	
	<b>Examiner</b> David T. Fidei	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-8 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                               | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)         |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____   |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Blosser et al (Patent no. 5,730,294). Blosser discloses a container for feminine hygiene articles comprising an integrally formed case 10 configured as two case segments 30, 12 interconnected by an integrally formed hinge at 16, see figure 1, so as to be deployable between an open and a closed state, such that in said closed state said case encloses a first storage compartment, said first storage compartment configured so as to house at least two different articles 64, 72 each having a different maximum length, see figure 6. Such that a first article is stored in a first region 52A of said first storage compartment and a second article is stored in a second region 52B of said first storage compartment, and a longitudinal cross sectional length of said first region is different than a of a longitudinal cross sectional length of said second region; and retaining element 40 deployed within said first storage compartment, said retaining element configured to hold at least one feminine hygiene article 64.

As to claim 2, the retaining element includes at least one pair of resilient grasping extensions 62 configured to grasp a cylindrical article between them. Col. 4, line 15 states the pair of shoulders (my terminology) in figure 4 forms a “grooves 62 to further engage tampons held therein”. Dictionary.com defines engage as “to become meshed or interlocked” and the language suggests the interlocking is such that the tampons are held therein. Grasping is defined by the same source as “to take hold of or seize firmly”. From comparing the relative meanings, it appears Blosser meets the limitation of claim 2. Furthermore, element 40 is described a molded from plastic, see claim 6, an intrinsically resilient material.

As to claim 8, the segments include complementary portions 32 of an integrally formed latch, such as Velcro, to releasably retain the case in the closed state.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen (Patent no. 4,848,588) in view of Stravitz (Patent no. 6,164,442). Rasmussen discloses a container for feminine hygiene articles comprising a case configured as two case segments 10, and a cover formed by members 44, 42, 46 interconnected so as to be deployable between an open and a closed state, such that in said closed state said case encloses a first storage compartment, said first storage compartment configured so as to house at least two different articles 13,38 each having a different maximum length, see figure 1. Such that a first article 13 is stored in a first region of said first storage compartment and a second article 38, 40, 32 or 34 is stored in a second region 52B of said first storage compartment, and a longitudinal cross sectional length of said first region is different than a longitudinal cross sectional length of said second region. A retaining element 59 deployed within said first storage compartment, said retaining element configured to hold at least one feminine hygiene article 13.

The difference between claim 1 and Rasmussen resides in the first and second section being interconnected by an integrally formed hinge. Stravitz disclose an sundry of different type of containers in figures 1-35, all of which are interconnected by an integrally formed hinge. It would have been obvious to one of ordinary skill in the container art to modify the container of Rasmussen by constructing the cover section interconnected by an integrally formed hinge as taught by Stravitz, in order to provide a container that is more easily opened and accessible.

As to claim 5, the at least on segments of Rasmussen figure 2 comprises a second storage compartment defined by opening 96 that is accessible from outside the container with the storage

Art Unit: 3728

compartment including a cover, defined by member 73, connected to the case so as to close the second storage compartment.

As to claim 6, a false floor is defined by member 84 that is deployed within the second storage compartment that intrinsically covers topographical differences thereby providing a substantially flat compartment floor, see figure 3.

As to claim 7, Stravitz discloses sealing rims, e.g. note figure 15 ledge 449 that defines a rim (the border, edge, or margin of a part, dictionary.com) which would engage the corresponding top edge of section 412, also defining a rim.

As to claim 8, Stravitz teaches complementary integrally formed latches.

***Allowable Subject Matter***

5. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**REPLY BY APPLICANT OR PATENT OWNER TO THIS OFFICE ACTION**

6. “In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to every ground of objection and rejection in this Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. The applicant’s or patent owner’s reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. The reply must be reduced to writing (emphasis added)”, see 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.

Pointing out specific distinctions means clearly indicating in the written response what features/elements or distinctions have been added to the claim/claims, where support is found in the specification for such recitations and how these features are not shown, taught, obvious or inherent in the prior art.

If no amendments are made to claims as applicant or patent owner believes the claims are patentable without further modification, the reply must distinctly and specifically point out the supposed errors in the examiner's action and must respond to every ground of objection and rejection in the prior Office Action in the same vain as given above, 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.

The examiner also points out, due to the change in practice as affecting final rejections, older decisions on questions of prematureness of final rejection or admission of subsequent amendments do not necessarily reflect present practice. "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)" (emphasis mine), see MPEP 706.07(a).

### **Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/725,006

Page 6

Art Unit: 3728

A handwritten signature in black ink, appearing to read 'D. T. Fidei', is positioned above the printed name.

David T. Fidei  
Primary Examiner  
Art Unit 3728

dtf

March 18, 2005